



DEPARTMENT OF ENVIRONMENTAL RESOURCES

3800 Cornucopia Way, Suite C, Modesto, CA 95358-9494
Phone: 209.525.6700 Fax: 209.525.6774

March 12, 2018

The Fruit Yard Inc.
7948 Yosemite Blvd
Modesto, CA 95357

RE: TRANSMITTAL OF CITATION NO. DER-18C-004 FOR TCR MCL FAILURE

The Fruit Yard Restaurant Water System violated the Maximum Contamination Level (MCL) for total coliform bacteria during the month of February 2018, as specified in the Domestic Water Quality a Monitoring Regulation, Chapter 15, Title 22, California Code of Regulations. The Stanislaus County Department of Environmental Resources has issued Citation No. DER-18C-004 in response to this violation. The citation and water supply permit are being transmitted to The Fruit Yard Restaurant Water System under cover of this letter. Please review and confirm each item of the Directives established in the citation.

Any person who is aggrieved by a citation issued by the Stanislaus County Department of Environmental Resources may file a petition with the State Water Resources Control Board (State Water Board) for reconsideration of the citation. Petitions must be received by the State Water Board within 30 calendar days of the issuance of the citation. The date of issuance is the date when the Stanislaus County Department of Environmental Resources mails or serves a copy of the citation, whichever occurs first. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day. Petitions must be received by 5:00 p.m. Information regarding filing petitions may be found at:
http://www.waterboards.ca.gov/drinking_water/programs/petitions/index.shtml

Section 116650(d) and Section 116650(e) of the California Health and Safety Code allow for the assessment of a civil penalty for failure to comply with the requirements of Chapter 4 of the California Safe Drinking Water Act. Stanislaus County Ordinance provides that fees must be charged for staff time in responding to MCL violations. The fee charged is the Department's weighted labor rate of \$106.00 per hour, with a one-hour minimum. To date, 2.0 hours have been spent responding to the MCL violation. This Department will invoice you.

If you have any questions regarding this matter, please contact Rachel Riess at (209) 525-6720.

Sincerely,

Rachel Riess, REHS
Registered Environmental Health Specialist

Enclosures (2)

STANISLAUS COUNTY
DEPARTMENT OF ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL HEALTH

To: The Fruit Yard Restaurant
7948 Yosemite Blvd
Modesto, CA 95357

Attn: The Fruit Yard, Inc., Owner
The Fruit Yard Restaurant

CITATION FOR VIOLATION OF CALIFORNIA CODE OF REGULATIONS,
TITLE 22, SECTION 64426.1 (b)
TOTAL COLIFORM RULE VIOLATION
WATER SYSTEM NO. 5000154
C I T A T I O N N O . D E R - 1 8 C - 0 0 4

Issued on March 12, 2018

The Department of Environmental Resources (hereinafter "Department"), acting by and through its Division of Environmental Health (hereinafter "Division") and the Manager for the Division (hereinafter "Manager"), hereby issues this Citation (hereinafter "Citation") pursuant to Sections 116330 (f) and 116650 of the California Health and Safety Code (hereinafter "CHSC") to The Fruit Yard Restaurant (hereinafter, "Fruit Yard") for violation of Title 22, California Code of Regulations (CCR), Section 64426.1 (b).

APPLICABLE AUTHORITIES

Section 116650 of California Health and Safety Code provides:

(a) If the Division determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the Division may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.

(b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.

(c) A citation may specify a date for elimination or correction of the condition constituting the violation.

(d) A citation may include the assessment of a penalty as specified in subdivision (e).

(e) The Division may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation.

California Code of Regulations, Title 22, Section 64426.1, subsection (b) provides, in relevant part:

(b) A public water system is in violation of the total coliform Maximum Contaminant Level ("total coliform MCL") when any of the following occurs:

(2) For a public water system which collects fewer than 40 samples per month, more than one sample collected during any month is total coliform-positive; or

(3) Any repeat sample is fecal coliform-positive or E.coli-positive; or

1 (4) Any repeat sample following a fecal coliform-positive or E.coli-positive
2 routine sample is total coliform-positive.

3 **STATEMENT OF FACTS**

4 Fruit Yard is operated under Water Supply Permit No. 2018-02-014, which was
5 issued on March 12, 2018.

6 Fruit Yard water system is located in Stanislaus County along Yosemite
7 Boulevard approximately 0.3 mile East of the City of Modesto. Fruit Yard's service
8 area is approximately 31.13 acres in size.

9 Fruit Yard's water system is classified as a transient non-community water
10 system that serves the patrons and staff of a restaurant and banquet center.
11 According to the 2017 Annual Report to the Division, Fruit Yard serves approximately
12 75 people through four service connections. The four services connections are un-
13 metered. The water system obtains its water supply from one active well located on
14 Fruit Yard property.

15 The well discharges to a 1000-gallon pressure/storage tank, prior to entering
16 the domestic water system. Irrigation demands are not provided by this well and are
17 supplied by a separate dedicated irrigation well.

18 With a population of 75, the Fruit Yard water system is required to have one
19 sample examined for bacteriological quality every month from its distribution system.
20 The Fruit Yard's contract laboratory, Far West Laboratories, utilizes the testing
21 SM9223 method for bacteriological analyses.

22 Specifically, on February 12, 2018, the Fruit Yard water system collected one
23 routine sample for bacteriological quality from the designated site in the distribution
24 system. This sample, collected from the market backroom sink, tested positive for
25 total coliform bacteria. The sample was negative for E.coli coliform bacteria.
26 On February 14, 2018, the Fruit Yard water system collected four (4) repeat samples
27 (one sample each from the routine coliform positive sample location, the downstream



locations, the upstream locations, and the well head.) Two of the repeat samples tested positive for total coliforms and none were E.coli coliform positive.

DETERMINATION

The Division has determined that Fruit Yard failed to comply with the requirements of Section 64426.1 (b) due to the fact that Fruit Yard had more than one sample during the month of February 2018 that was total coliform-positive. Therefore, Fruit Yard is in violation of Section 64426.1 (b) of the California Code of Regulations.

DIRECTIVES

Fruit Yard is hereby directed to take the following actions:

1. On February 16, 2018, this Division directed Fruit Yard to notify the consumers by March 15, 2018, of the bacteriological quality (Total Coliform Rule) failure in conformance with Section 64464.3(a)(1), Title 22, CCR. The notification shall be provided in accordance with the following:

- a. Provide written notice of the bacteriological water quality MCL violation by mail or by direct hand delivery to every customer and by publication of notice in a newspaper of general circulation in the area served by the Fruit Yard. The notice shall be published and delivered once, no later than the above mentioned date.

This notification shall be given in English. In addition, if the Fruit Yard water system serves a large proportion of other non-English speaking consumers, notices must contain some information in the appropriate language(s) on the importance of the notice as provided in the Department's guidance for the Consumer Confidence Report.

- b. The contents of the notice, including the mandatory language, shall be approved by the Department prior to publication and delivery.

A sample notification form that can be used to satisfy the public notification requirement has already been provided to Joe Traina by email.

1 c. On February 20, 2018, the Fruit Yard submitted to the Department the
2 Proof of Notification using an approved notification form.

3 2. On February 16, 2018, this Division directed Fruit Yard to perform an
4 investigation to determine the cause of possible significant rise in bacterial
5 count in the Fruit Yard distribution system during the month of February 2018.
6 A report of the investigation shall also be prepared in accordance with Section
7 64426 (b)(2), Title 22, CCR, and submitted to the Department by March 15,
8 2018. A form that should be used to meet this requirement also has already
9 been sent to Joe Traina by email.

10 a. On March 2, 2018, the Fruit Yard submitted to the Department the rTCR
11 Level 1 Assessment Form.

12 The Division reserves the right to make such modifications to this Citation as it
13 may deem necessary to protect public health and safety. Such modifications may be
14 issued as amendments to this Citation, and shall be deemed effective upon issuance.

15 Nothing in this Citation relieves Fruit Yard of its obligation to meet the
16 requirements of the California Safe Drinking Water Act, or of any regulation, permit,
17 standard, or order issued or adopted thereunder.

18 All submittals required by this Citation shall be submitted to the Division at the
19 following address:

20 Rachel Riess, REHS
21 Department of Environmental Resources
22 3800 Cornucopia Way, Suite C
23 Modesto, CA 95358

24 **PARTIES BOUND**

25 This Citation shall apply to and be binding upon Fruit Yard, its officers, directors,
26 shareholders, agents, employees, contractors, successors, and assignees.

1 **SEVERABILITY**

2 The Directives of this Citation are severable, and Fruit Yard shall comply with
3 each and every provision thereof, notwithstanding the effectiveness of any other
4 provision.

5 **FURTHER ENFORCEMENT ACTION**

6 The California SDWA authorizes the Department to: issue citation with
7 assessment of administrative penalties to a public water system for violation or
8 continued violation of the requirements of the California SDWA or any permit,
9 regulation, permit or order issued or adopted thereunder including, but not limited to,
10 failure to correct a violation identified in a citation or compliance order. The California
11 SDWA also authorizes the Board to take action to suspend or revoke a permit that
12 has been issued to a public water system if the system has violated applicable law or
13 regulations or has failed to comply with an order of the Department; and to petition the
14 superior court to take various enforcement measures against a public water system
15 that has failed to comply with violates an order of the Department. The Department
16 does not waive any further enforcement action by issuance of this citation.

17
18
19 3/12/18
20 Date

21 Rachel Riess
22 Rachel Riess, REHS
23 Senior Environmental Health Specialist
24 Division of Environmental Health
25 Department of Environmental Resources
26 Stanislaus County
27

Certified Mail No. 7014 3490 0001 6849 4415